

## EXHIBIT A

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

DELON CLARK,

Plaintiff,

v.

Case No.

FRANKLIN COLLECTION SERVICE, INC.,

Defendant.

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**COMPLAINT**

COMES NOW Plaintiff, DELON CLARK, by and through the undersigned attorneys, and for Plaintiff's Complaint against Defendant, FRANKLIN COLLECTION SERVICE, INC., alleges and affirmatively states as follows:

**INTRODUCTION**

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

2. Defendant, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection and does so through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers and in the course of attempting to collect on a consumer debt allegedly owed by Plaintiff, Defendant violated the provisions of the FDCPA as set forth herein.

**JURISDICTION AND VENUE**

3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

4. Because Defendant conducts business in the state of New Jersey, personal jurisdiction is established.

5. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

### **PARTIES**

6. Plaintiff is a natural person residing in West New York, New Jersey.

7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6) and sought to collect a consumer debt from Plaintiff.

9. Defendant is a collection agency located in Mississippi.

### **FACTUAL ALLEGATIONS**

10. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt stemming from a personal AT&T consumer account with an approximate balance of \$74.57.

11. In its ordinary course of business, Defendant sought to collect the alleged debt owed by sending Plaintiff collection notices (“dunning letters”) via U.S. Postal Mail to Plaintiff’s West New York, New Jersey residence.

12. Defendant intentionally sent at least one (1) collection notice to Plaintiff during the months of June 2014 through August 2014.

13. On or about August 14, 2014, Defendant caused to be mailed, and Plaintiff received, a collection notice seeking to collect the alleged debt. (See Exhibit A).

14. Defendant's August 14, 2014 collection notice, in pertinent part, reads:

"IF YOU ARE NOT PAYNG THIS AT&T ACCOUNT IN FULL,  
PLEASE CONTACT YOUR ATTORNEY REGARDING OUR  
POTENTIAL REMEDIES AND YOUR DEFENSES, OR CALL  
(888) 215-8961"

(See Exhibit A).

15. Defendant's August 14, 2014 correspondence also refers to the alleged debt as "FCSI CASE #" 024939232. (Exhibit A).

16. Upon receipt of Defendant's August 14, 2014 correspondence, Plaintiff became concerned that Defendant's reference to a "Case #" and instructions to contact an "attorney" regarding "defenses" and Defendant's "remedies" pertained to legal action, including an immediate lawsuit, wage garnishment and/or property seizure.

17. Defendant intended the August 14, 2014 correspondence to be interpreted as a reference to imminent legal action and other legal remedies absent immediate payment by Plaintiff.

18. What is more, Defendant's August 14, 2014 correspondence refers to Defendant as a collection "firm." Defendant is a corporation engaged in debt collection and is not a "firm" as the least sophisticated consumer would interpret "firm" to me, i.e., a law firm.

19. Plaintiff believes and thereon alleges that Defendant has no intention whatsoever to initiate litigation against Plaintiff for the alleged balance owed as the total sum due is \$74.57 and thus any reference to a "Case #" and instructions to contact an "attorney" regarding Plaintiff's "defenses" and Defendant's "remedies" is a false threat of legal action which Defendant does not intend to carry out.

**COUNT I**  
**DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT,**  
**(FDCPA), 15 U.S.C. § 1692 et seq.**

20. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:

- (a) Defendant violated §1692d by engaging in conduct the natural consequence is the abuse, annoyance or harassment of Plaintiff;
- (b) Defendant violated §1692e of the FDCPA by utilizing false and deceptive practices in connection with collection of the alleged debt;
- (c) Defendant violated §1692e(4) by making the representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action;
- (d) Defendant violated §1692e(5) by making the threat to take any action that cannot legally be taken or that is not intended to be taken; and
- (e) Defendant violated §1692e(10) by utilizing false representations or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer; and

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- 21. Statutory damages of \$1,000.00 pursuant to the Federal Act, 15 U.S.C. 1692k;
- 22. Costs and reasonable attorney's fees pursuant to the Federal Act, 15 U.S.C. 1692k;
- and;
- 23. Any other relief that this court deems to be just and proper.

Dated: December 29, 2014

Respectfully submitted,

**LAW OFFICES OF MICHAEL LUPOLOVER, P.C.**

By: /s/ David P. Force  
David P. Force, Esq.  
Law Offices of Michael Lupolover, P.C.  
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Englewood Cliffs, NJ 07632  
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Email: david@lupoloverlaw.com  
Attorney for the Plaintiff Delon Clark

FCSI  
P.O. BOX 3910  
TUPELO MS 38803-3910

THE COLLECTION FIRM  
FRANKLIN COLLECTION SERVICE, INC  
PO BOX 3910  
TUPELO, MS 38803-3910

TOLL FREE: (888) 215-8961

NOTICE DATE: AUGUST 14, 2014



WWW.FRANKLINSERVICE.COM  
Make checks payable to Franklin Collection Service, Inc.



DELON CLARK  
6008 HUDSON AVE APT 305  
WEST NEW YORK NJ 07093-2891



DETACH AND RETURN TOP PORTION WITH YOUR PAYMENT.

OWED TO:	AT&T
FCSI CASE #:	024939232
CLIENT ACCOUNT NUMBER:	404-582-0500 005
TOTAL DUE THIS ACCOUNT:	74.57

DEAR MR./MRS. DELON CLARK

IF YOU ARE NOT PAYING THIS ACCOUNT IN FULL, CONTACT YOUR ATTORNEY REGARDING OUR POTENTIAL REMEDIES, AND YOUR DEFENSES, OR CALL (888) 215-8961.

I INTEND TO REPORT THIS ACCOUNT ON YOUR CREDIT HISTORY AFTER (30) THIRTY DAYS OF YOU RECEIVING THIS NOTICE.

\*\*\* IT WILL BE PURSUED TO A CONCLUSION! \*\*\*

TO DISCUSS YOUR PAYMENT OPTIONS CALL 1-888-215-8961. DON'T WANT TO TALK TO A LIVE FCSI CASE WORKER? GO TO [WWW.FRANKLINSERVICE.COM](http://WWW.FRANKLINSERVICE.COM) TO PAY ONLINE, OR TO CHAT WITH AN ONLINE FCSI REPRESENTATIVE. TO PAY BY PHONE 24 HOURS A DAY YOU MAY CALL 866-319-0760. YOU MAY PAY BY CREDIT OR DEBIT CARD BY COMPLETING THE BACK OF THIS NOTICE. PLEASE HAVE YOUR CHECK OR CREDIT/DEBIT CARD INFORMATION READY.

\*BE SURE TO INCLUDE YOUR FCSI CASE NUMBER.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

BUSINESS HOURS: MONDAY-FRIDAY 8 A.M. - 9 P.M., SATURDAY 8 A.M. - 5 P.M. CST

FRANKLIN COLLECTION SERVICE, INC.

\*\*PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION\*\*

FOR YOUR CONVENIENCE WE HAVE CREATED YOUR OWN PERSONAL URL AND PASSWORD TO MAKE IT EASIER TO PAY YOUR DEBT.

PERSONAL URL: <http://dclark3aeus.revexpress.com>

PASSWORD: delo#362





**PLEASE ACCEPT PAYMENT BY:**

MASTERCARD, VISA, AMERICAN EXPRESS, OR DISCOVER



Account No. \_\_\_\_\_

Expiration Date: \_\_\_\_\_ Month \_\_\_\_\_ Year \_\_\_\_\_

Cardholder Name (as it appears on the card): \_\_\_\_\_

Signature \_\_\_\_\_

Contact number for verification of information if necessary: (\_\_\_\_\_) \_\_\_\_\_

**CHECKING ACCOUNT:**

Name on Account: \_\_\_\_\_

Routing #: \_\_\_\_\_ Account #: \_\_\_\_\_

UNLESS YOU NOTIFY US WITHIN THIRTY (30) DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL ASSUME THIS DEBT IS VALID. IF YOU NOTIFY THIS OFFICE IN WRITING WITHIN THIRTY (30) DAYS FROM RECEIVING THIS NOTICE THAT THE DEBT, OR ANY PART THEREOF, IS DISPUTED THIS OFFICE WILL OBTAIN VERIFICATION OF THE DEBT OR OBTAIN A COPY OF A JUDGMENT AND MAIL YOU A COPY OF SUCH JUDGMENT OR VERIFICATION. IF YOU REQUEST THIS OFFICE IN WRITING WITHIN THIRTY (30) DAYS AFTER RECEIVING THIS NOTICE, THIS OFFICE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR IF DIFFERENT FROM THE CURRENT CREDITOR.

<b>State</b>	<b>License #</b>	<b>State</b>	<b>License #</b>	<b>State</b>	<b>License #</b>	<b>State</b>	<b>License #</b>
AK	336	ID	CCA-3308	MN	CA20339488	OR	CA48865
AZ	CA-0905411	IL	17-020633	NE	472	TN	407
AR	813	IN	6579	NM	00733	UT	5077006-0131
CO	988234	ME	DCL6276	NYC	1155006	WA	602218015
CT	10853	MD	3370	NY-Buffalo	535537	WV	1050-5604
DE	2002103154	MA	DC0860	NC	101292		
FL	CCA0900343	MI	2401001759	ND	CA100726		

When this letter was mailed no attorney has personally reviewed your account.



## EXHIBIT B

**UNITED STATES DISTRICT COURT  
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DELON CLARK,

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Defendant.

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**DECLARATION OF DELON CLARK IN SUPPORT OF COMPLAINT**

I, Delon Clark, hereby state and declare as follows:

1. I am an adult over the age of 18 and a resident of the City of West New York, State of New Jersey.
2. I have personal knowledge of the following facts and, if called upon as a witness, could and would competently testify thereto, except as to those matters which are explicitly set forth as based upon my information and belief and, as to such matters, I am informed and believe that they are true and correct.
3. The alleged debt that Defendant sought to collect from me was for an allegedly unpaid AT&T account which was used for personal, family and/or household purposes.
4. Defendant sent at least one (1) collection notice to me during the months of June 2014 through August 2014, seeking to collect the alleged AT&T debt.
5. Sometime shortly after August 14, 2014, I received a collection notice from Defendant dated August 14, 2014. A true and correct copy of that correspondence is attached to my Complaint as "Exhibit A." I did not edit or alter "Exhibit A" to my Complaint in any way, shape or form.

DECLARATION OF DELON CLARK

6. Defendant's August 14, 2014 collection notice read:

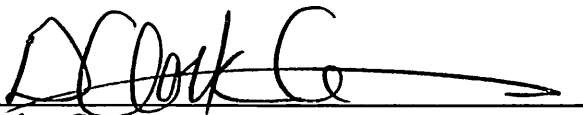
"IF YOU ARE NOT PAYING THIS AT&T ACCOUNT IN FULL,  
PLEASE CONTACT YOUR ATTORNEY REGARDING OUR  
POTENTIAL REMEDIES AND YOUR DEFENSES, OR CALL (888)  
215-8961"

7. Defendant's August 14, 2014 correspondence also refers to the alleged debt as "FCSI  
CASE #" 024939232.

8. Upon receipt of Defendant's August 14, 2014 correspondence, I became concerned and  
fearful that Defendant's reference to a "Case #" and instructions to contact an "attorney"  
regarding "defenses" and Defendant's "remedies" pertained to legal action against me, including  
an immediate lawsuit, wage garnishment and/or property seizure as I associate such terms and  
phrases with lawsuits and litigation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and  
correct.

Executed on this 18<sup>th</sup> day of December 2014 at  
West New York, New Jersey.

  
Delon Clark